

REMARKS

Claims 1-7 are pending in the application. The claims have been amended in line with the helpful comments of the Examiner and to place them in more conventional U.S. patent claim format. No new matter has been added.

Claims 1-7 stand rejected as allegedly being indefinite. Applicant submits that the claim amendments render the rejection moot.

Claims 1-7 stand rejected as allegedly being anticipated by either WO 02/058523 or EP 1 247 480 A. Applicant respectfully traverses the rejection for at least the following reasons.

The two cited references do not disclose each of the claimed features and functions. Contrary to the rejection's contention that claim 1 only recites functional features and is therefore anticipated, the claimed valve is defined in such a way that it must include structural features and certain functions. Stated another way, the claimed valve opens when a preset pressure is attained; thus, there must be structural features present, e.g., a spring or a sensor, to achieve the claimed function. The cited references do not disclose such a feature or function. As a result, they do not anticipate the claimed invention that have certain features and functions.

In this regard, the foregoing analysis is in accord with the attached International Preliminary Report on Patentability – which unequivocally states that the claimed invention is novel over the cited references.

Applicants submit that the subject application is in condition for allowance. A notice to that effect is earnestly solicited. If the Examiner has any questions concerning this application, the undersigned may be contacted at 703-816-4009.

MARILLER
U.S. App. No. 10566973

Respectfully submitted,

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference	FOR FURTHER ACTION	
	See Form PCT/IPEA/416	
International application No. PCT/CH2004/000484	International filing date (day/month/year) 03.08.2004	Priority date (day/month/year) 05.08.2003
International Patent Classification (IPC) or national classification and IPC A47J31/40, A47J31/06		
Applicant GAILLARD, JEAN-Paul et AL.		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>2</u> sheets, as follows:</p> <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement according to Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>

Date of submission of the demand 14.04.2005	Date of completion of this report 17.11.2005
Name and mailing address of the IPEA/ European Patent Office – P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk – The Netherlands Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer Lehe, J Telephone No. +31 70 340-3108

Box No. I. Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b)).
 - publication of the international application (under Rule 12.4).
 - international preliminary examination (under Rule 55.2 and/or 55.3).
2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation according to Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, pages

1-9 as originally filed

Claims, No.

1-7 received on 14.04.2005 with the letter of 14.03.2005

Drawings, sheets

1/7-7/7 as originally filed

 a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/fig
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This report has been established as if (some of) the amendments annexed to this report and listed below has not been made, since they have been considered to go beyond the disclosure as filed, as is indicated in the Supplemental Box (Rule 70.2(c)):
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/fig
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applied, some or all of those sheets may be marked "superseded."

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty	Yes:	Claims	1-7
	No:	Claims	
Inventive Step	Yes:	Claims	1-7
	No:	Claims	
Industrial Applicability	Yes:	Claims	1-7
	No:	Claims	

2. Citations and explanations (Rule 70.7)

see separate sheet

Concerning point V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement.

1. Reference is made to the following documents:

D1: EP-A-1 247 480 (MOEVENPICK HOLDING) 9 October 2002

D2: WO 02/058523 A (MONODOR SA; DENISART JEAN-PAUL (CH)) 1 August 2002

D3: US-B1-6 182 554 (BEAULIEU RODERICK H ET AL) 6 February 2001

2.1. Document D1 (Fig. 3) describes (reference numbers in parentheses apply to this document): A device for the preparation of a coffee-based drink by extracting a dose of ground coffee contained in a capsule, said device comprising a water tank (21), a pump (20), a heater body (24) and a water injection member (2, 8, 50) connected successively via a water inlet pipe (24', 23, 22);

- the device also comprising, placed in the extension of the water injection member, a capsule-carrier (5) and an outlet orifice (col. 8, l. 9-20) for the water-coffee mixture,
- the capsule-carrier being suitable for being manually attached to and removed from the device (an implicit feature, because the capsule-carrier is a detachable part),
- and comprises means for containing a coffee capsule, so that the pressurized water originating from the water injection member can traverse the capsule and pass through the outlet orifice (col. 8, l. 9-20),
- said device consisting of a single branch pipe (25), connected at one of its ends to the water inlet pipe (23), and comprising, at the other of its ends, hydraulic means (26, 35, 40) suitable for controlling the outflow of a water-coffee mixture through the outlet orifice (col. 8, l. 9-20), the device also comprising a valve (40) placed on the branch pipe (25).

Consequently, the object of claim 1 differs from this known device in that:

said valve is suitable for being either open and allowing a flow of water in the branch pipe when a preset pressure is reached, or closed and to close off all flow in the branch pipe when said preset pressure is not yet reached.

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REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/CH2004/000484

2.2. The object of claim 1 is therefore novel (PCT article 33(2)).

The problem that the present invention proposes to solve may therefore be considered as obtaining a simplified device.

2.3. The solution of this problem proposed in claim 1 of the present application is considered to be implying an inventive step (PCT article 33(3)), since none of the cited documents either shows or suggests such a combination of features as proposed in claim 1.

3. Claims 2-7 depend on claim 1 and therefore also, as such, satisfy the conditions required by the PCT as concerns novelty and inventive step.

Claims

1. A device for the preparation of a coffee-based drink by extracting a dose of ground coffee contained in a capsule (8), said device comprising a water tank (1), a pump (2), a heater body (15) and a water injection member (9) connected successively via a water inlet pipe (3); the device also comprising, disposed in the extension of the water injection member (9), a capsule-carrier (7) and an outlet orifice (10) for the water-coffee mixture, the capsule-carrier (7) being suitable for being manually attached to and removed from the device and comprises means for containing a capsule (8) of coffee, so that the pressurized water originating from the water injection member (9) can pass through the capsule (8) and pass through the outlet orifice (10), said device being characterized in that it also consists of a single branch pipe (5), said branch pipe (5) being connected at one of its ends to the water inlet pipe (3), and comprises, at the other of its ends, hydraulic means (6, 12, 13, 20) suitable for controlling the outflow of a water-coffee mixture through the outlet orifice (10); the device also comprising a valve (4) placed on the branch pipe (5), said valve (4) being suitable either to be open and allow the water to flow into the branch pipe (5) when a preset pressure is reached, or closed and close off any flow in the branch pipe (5) when said preset pressure is not yet reached.
2. The device as claimed in the preceding claim, comprising means of adjustment, by a user, of said preset pressure.
3. The device as claimed in claim 1 or 2,

characterized in that the valve (4) is pressure-sensitive.

4. The device as claimed in any one of claims 1 to 3, 5 characterized in that the hydraulic means (6, 12) comprise a stopper (12) which alternatively closes off or releases the flow of a water-coffee mixture through the outlet orifice (10).
- 10 5. The device as claimed in the preceding claim, characterized in that the capsule-carrier (7) comprises at least one outflow orifice (14) and that the hydraulic means (6, 12) are placed so as to be able to close off said orifice (14). 15
6. The device as claimed in any one of claims 1 to 3, characterized in that the hydraulic means (6, 13) consist of at least one perforation member (13) which, when it is activated, perforates a capsule 20 20 placed on the capsule-carrier (7) and thereby allows a water-coffee mixture to flow through the outlet orifice (10).
7. The device as claimed in any one of the preceding 25 claims, characterized in that the hydraulic means comprise a flexible reservoir (20) which, when it swells following the arrival of water, operates means (21, 22, 24, 12, 13) which release the outflow of a water-coffee mixture through the 30 outlet orifice (10).